

Magistrate Judge Benton

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,
Plaintiff,

v.

JAVED KHAN,
Defendant.

MAGISTRATE'S DOCKET NO.
CASE NO. 03-444 M

COMPLAINT for VIOLATION
8 U.S.C. § 1325(a)(1) and (a)(2)
(Illegal Entry – Misdemeanor)

BEFORE, Monica J. Benton, United States Magistrate Judge, Seattle, Washington.

The undersigned complainant, being duly sworn, alleges:

COUNT 1

On or about August 9, 2003, at Seattle, within the Western District of Washington, JAVED KHAN, an alien, a native and citizen of Pakistan, was found in the United States after having knowingly and unlawfully entered the United States at a time and place other than as designated by immigration officers, and after having knowingly and unlawfully eluded examination and inspection by immigration officers.

All in violation of Title 8, United States Code, Sections 1325(a)(1) and (a)(2).

The Complainant further states that this Complaint is based on the following information:

I. INTRODUCTION

1. I, Darrick D. Smalley, am a Senior Special Agent (SA) with the Bureau of Immigration and Customs Enforcement (BICE)(formerly the Immigration and Naturalization Service), and have been so employed since June of 1988. I have been in continuous employ as a Special Agent excepting a two-year period where I was assigned as the Immigration Attache at the American Embassy, Moscow, Russia. Since August 2001, I also have been assigned to the Joint Terrorism Task Force (JTTF) in Seattle, Washington. I conduct administrative and criminal investigations involving aliens, which are persons who are neither citizens nor nationals of the United States, and United States citizens who are engaged in criminal activity with aliens. I have conducted numerous investigations involving aliens who have obtained legal status in the United States through fraudulent means, as well as of aliens who have illegally entered the United States through smuggling or otherwise.

2. The facts set forth herein are based on interviews and investigation conducted by myself, other BICE agents, FBI agents, and Port of Seattle Police officers. What follows is a summary of the information gathered by law enforcement agents through witness interviews and follow-up investigation:

II. CIRCUMSTANCES ESTABLISHING PROBABLE CAUSE

3. On August 9, 2003, at approximately 10:15 p.m., JAVED KHAN approached the Jet Blue Airline counter at Seattle-Tacoma International Airport. KHAN attempted to purchase with cash a one-way ticket to New York City, departing later that night. KHAN did not have any luggage with him, and was carrying only a plastic bag and a jacket. Based on these circumstances, the Jet Blue ticket counter representative questioned KHAN to obtain further information about his travel. In response, KHAN walked away from the ticket counter, leaving approximately \$800 cash on the counter. The Jet Blue employee reported the incident to the Port of Seattle Police.

4. Shortly thereafter, Port of Seattle Police Officer Ronald Irons approached KHAN. After identifying KHAN, Officer Irons determined that KHAN was the subject

1 of an outstanding Canadian immigration warrant. KHAN was thereafter detained for
2 further questioning at the Sea-Tac Airport holding area. KHAN told Officer Irons that he
3 had a Pakistani passport, but that the passport was in a vehicle driven by his "uncle"
4 outside the airport. KHAN provided Officer Irons with consent to search his belongings.
5 Officer Irons found KHAN's Pakistani passport in his jacket, contrary to what KHAN
6 previously stated. KHAN's plastic bag contained two cameras loaded with film, a phone
7 card, other credit/bank cards, a Canadian driver's license in KHAN's name, and a
8 Pakistani identification card (in Arabic).

9 5. Later on August 9, 2003, BICE Special Agent Brett Copher interviewed
10 KHAN in an effort to determine KHAN's citizenship and whether he had any legal status
11 in the United States. KHAN admitted to Agent Copher that he was a native and citizen of
12 Pakistan, and that he had been illegally smuggled into the United States a few days
13 earlier. Agent Copher also reviewed KHAN's passport and determined that there was no
14 admission stamp authorizing his entry into the United States, and that KHAN did not have
15 the required visa authorizing his entry. KHAN was thereafter detained on administrative
16 immigration charges, and was transported to the Seattle BICE Detention Facility.

17 6. On August 12, 2003, and again on August 15, 2003, I interviewed KHAN
18 concerning his entry into the United States. The interviews were conducted at the BICE
19 Detention Facility. KHAN informed me that he was a citizen of Pakistan. According to
20 KHAN, in 1998 he flew from Pakistan to Los Angeles, California. Shortly thereafter, he
21 was smuggled into Canada across the border at Blaine, Washington. KHAN applied for
22 and was granted asylum in Canada. KHAN reported that approximately one year ago, he
23 lost his asylum status in Canada. Based upon information provided by Canadian
24 immigration officers to other United States law enforcement agents assisting in this
25 investigation, I am aware that Canadian immigration officials reexamined and ultimately
26 revoked KHAN's asylum status, due to their discovery that KHAN had resided in the
27 United States prior to his entry into Canada, which he had not disclosed in his asylum
28


1 application. Following the revocation of his status, a warrant for KHAN's removal from
2 Canada was issued by Canadian immigration authorities.

3 7. During my interviews of KHAN, he further stated that, after losing status in
4 Canada, he wanted to travel to New York, New York, where he planned to seek asylum.
5 Through contacts in Vancouver, British Columbia, KHAN arranged to be smuggled
6 across the United States-Canadian border. On or about August 5, 2003, KHAN was led
7 across the border on foot, near Blaine, Washington, without undergoing inspection by a
8 designated United States immigration officer. Ultimately KHAN attempted to fly from
9 Seattle to New York City on August 9, 2003, where he was detained as set forth above.

10 8. On August 9, 2003, KHAN admitted to BICE Special Agent Copher that he
11 avoided inspection by immigration officers because he was aware that it was illegal for
12 him to enter the United States without obtaining proper immigration documents. I have
13 reviewed KHAN's passport and the other documents found in his possession on August 9,
14 2003, and have confirmed that KHAN did not possess the required visa or entry stamps
15 authorizing his entry into the United States.

16 III. CONCLUSION

17 9. Based on the foregoing, there exists probable cause to believe that the
18 defendant, JAVED KHAN, knowingly and unlawfully entered the United States at a time
19 and place other than as designated by immigration officers, and by eluding examination
20 and inspection by immigration officers at the time of entry, in violation of Title 8, United
21 States Code, Sections 1325(a)(1) and (a)(2).

22 
23 DARRICK D. SMALLEY, Senior Special Agent
24 Bureau of Immigration and Customs Enforcement

25 SIGNED AND SWORN to before me this 20 day of August,
26 2003, by Darrick D. Smalley.

27 
28 MONICA J. BENTON
United States Magistrate Judge